

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DEREK J ELLIOTT**  
Claimant

**WHIRLPOOL CORPORATION**  
Employer

**APPEAL 20A-UI-14622-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/29/19**  
**Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

**STATEMENT OF THE CASE:**

Derek J Elliott, the claimant/appellant, filed an appeal from the October 27, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 13, 2021. Mr. Elliott participated and testified. The employer did not participate.

**ISSUES:**

Is Mr. Elliott able to and available for work?  
Is Mr. Elliott on a voluntary leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Elliott works for the employer as a full-time material handler.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. On July 29, Mr. Elliott showed symptoms of COVID-19 and left work. He called human resources and was placed on a leave of absence. He returned to work on August 13.

On August 17, the employer closed due to the derecho that swept through Iowa and temporarily laid off many of its employees, including Mr. Elliott. Mr. Elliott returned to work on August 24.

Mr. Elliott has otherwise been employed by the employer.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, this administrative law judge concludes that Mr. Elliott is not able to and available for work July 29 through August 12.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In this case, Mr. Elliott requested and was granted a leave of absence from July 29 through August 12 due to having COVID-19 symptoms. Mr. Elliott has not established that he was able to and available for work during this period even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, Mr. Elliott is not eligible for regular, state-funded unemployment insurance benefits from July 29 through August 12.

Mr. Elliott was temporarily laid off by the employer August 17-21 due to the derecho.

Even though Mr. Elliott is not eligible for regular unemployment insurance benefits under state law from July 29 through August 12, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

#### **DECISION:**

The October 27 2020, (reference 01) unemployment insurance decision is modified in favor of the appellant, Mr. Elliott. Mr. Elliott is not able to and available for work July 29, 2020 through August 12, 2020, and regular, state-funded unemployment insurance benefits are denied during that time period. Mr. Elliott is able to and available for work August 17, 2020 through August 22, 2020. Benefits are allowed during that time period, provided Mr. Elliott is otherwise eligible.



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Daniel Zeno  
Administrative Law Judge

February 01, 2021  
Decision Dated and Mailed

dz/ol

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be r**